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AN ORDINANCE BY

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TO AMEND DIVISION 14, ARTICLE V, DIVISION 1 AND 2, AND 106-226 OF CHAPTER 106, "OFFENSES AND MISCELLANEOUS PROVISIONS" OF ARTICLE V OF THE CODE OF ORDINANCES, CITY OF ATLANTA, GEORGIA SO AS TO PROVIDE FOR THE LICENSING AND REGULATION OF ADULT DANCEHALLS; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the governing body of the city of Atlanta has a significant interest in maintaining and assuring the public safety for all the city of Atlanta; and

WHEREAS, the City of Atlanta desires to clarify the provisions governing dancehalls in the city of Atlanta and define the conditions under which these entities will operate in the City of Atlanta.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS as follows:

**Section 1.**

That Division 1 and Division 2 of Chapter 14 "Amusements and Entertainments," Article V be deleted in its entirety.

**Section 2.**

That Section 106-226 of Chapter 106 Offenses and Miscellaneous Provisions of Article V which states be deleted in its entirety.

**Section 3.**

That a Division \_\_\_\_ be created entitled "Adult Dancehalls" with the following provisions:

**Definitions.**

For the purposes of this Division, words and terms shall have following meanings:

"Person" means any individual, receiver, assignee, firm, copartnership, joint venture, corporation, company, joint stock company, association, society, or any group or individuals, acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

"Adult Dance" means any dance for patrons eighteen years of age and older that is readily accessible to the public and which:

1. is held and conducted for a profit, direct or indirect; or
2. requires a monetary payment or contribution from any of the persons admitted.

"Adult Dancehall" means any place where a dance for persons eighteen years of age and older is conducted, operated or maintained and includes the premises in which the adult dancehall is conducted, operated or maintained including but not limited to all parking areas, hallways, bathrooms and all adjoining areas on the premises accessible to the public during the dance.

"Owner", as used in this section, (except when specific reference to owner of the physical location or premises) shall include the owner, operator, manager or other person having supervision of a dancehall as defined herein. Any license required by State or municipal laws for the operation of a dancehall or ballroom shall be prima facie evidence that the licensee named therein is the owner of said dance hall as defined herein.

"Private Party" as used in this section means any event that is not readily accessible to the public and which is not held and conducted for a profit, direct or indirect and requires no monetary payment or contribution from any of the persons admitted.

**Section \_\_\_\_\_ Duty of operator or manager to enforce article.**

The applicant is considered, for purposes of this Division, the owner, operator or manager of an adult dancehall. The applicant shall assure that the sections of this article are carried out. If the applicant fails to do so, either intentionally or by inadvertence, the applicant shall be deemed guilty of an offense for each such violation.

**Section \_\_\_\_\_ Adult dance hall license – Required.**

No person shall conduct or operate an adult dance unless the person who is conducting or operating such adult dance has obtained an adult dancehall license in accordance with the provisions of this Division. The license required by this section shall be in addition to any other license required by law, and the operation of such a place as herein described shall not be construed to be incidental to some other business. The requirements of this Division may be waived by action of Council.

**Section \_\_\_\_\_ Multiple licenses Allowed;**

All dancehall license holders shall have either a teen dance hall license or an adult dance hall license or both. Teen and adult dance halls can not however be conducted at the same time in the same location.

**Section \_\_\_\_\_ Adult dance hall operations - No Alcoholic Beverages Allowed.**

No alcoholic beverages shall be allowed on the premises where the adult dancehall is operated.

**Section \_\_\_\_\_ Exceptions.**

1. The requirements of this Division shall not apply if the adult dance is limited to fewer than (100) persons.

2. The requirements of this Division shall not apply if the adult dance is sponsored, produced, or conducted under the auspices of educational institutions or by a nonprofit educational facility defined as a public or private academic institution, operated for nonprofit and accredited by the State of Georgia, that offers a program or series of programs of academic study.
3. The requirements of this Division shall not apply if the adult dance is sponsored by a nonprofit tax-exempt organization, corporation or association recognized by the United States of America as exempt from federal income taxation pursuant to Section 501(c)(1) or (3) of the Internal Revenue Code of 1954, 26 U.S.C. Section 501 as now existing or hereafter amended.
4. The requirements of this Division shall not apply if the adult dance is sponsored for a charitable or fraternal organization where that organization receives the proceeds of the event.
5. The requirements of this Division shall not apply if the adult dance is given by local merchants, the proceeds of which are given to local charities.
6. Nothing in this Section shall apply to adult dances conducted by or under the auspices of the City of Atlanta or the Atlanta Board of Education or by any club or organization specifically authorized by the City Council.
7. Private parties.

**Section \_\_\_\_ Dancing for hire.**

A. No person carrying on a public dancehall, or having charge or control thereof, shall:

1) employ or permit any person under the age of twenty-one years to give instruction in dancing nor shall permit any person to dance for hire, nor shall any person, male or female, give instruction in dancing in any public dancehall except when such instructors are specifically authorized by the City of Atlanta in writing to give dancing instruction. Any such authorization shall at once be revoked if it shall become evident that such person is dancing for hire or is not a bona fide dancing instructor.

2) permit any instructor to give instructions in dancing in any private room or booth in such public dancehall. For the purpose of this Section the term "private room or booth" shall include any room, booth, alcove or enclosure, every part of which is not clearly visible at all times from the main dance floor.

B. Nothing in this Section contained shall be deemed or construed as applying to any place where dancing instruction by certified instructors is the principal activity of the business.

**Section \_\_\_\_\_ Identification requirements for adult dances -- Penalty.**

1. The person conducting and/or operating a public dance or adult dance shall require identification showing the age of each person admitted or seeking to be admitted.
2. Any person who shall by affirmative misrepresentation of age obtain admission to or permission to remain in any adult dance in violation of this Division shall be guilty of a misdemeanor.
3. Any person who knowingly or recklessly shall permit a person to enter or remain in any adult dance or adult dance hall in violation of this Division shall be guilty of a misdemeanor.

**Section \_\_\_\_\_ Application.**

1. The person desiring to conduct and/or operate an adult dance shall be responsible for obtaining an adult dancehall license. All locations of the adult dance halls must be approved by Department of Police and must comply with all City of Atlanta laws including, but not limited to, Building, Zoning, And Fire Codes. The applicant must demonstrate compliance by providing proof of compliance with these Codes.
2. All persons desiring to obtain a license required under this Division shall make written application to the department of police. The application shall be sworn to by the applicant or agent thereof and shall state the following:
  - (a) the name, address, and phone number of the applicant.
  - (b) if the applicant is a partnership or corporation, the name(s), address(es) and telephone number(s) of the partner(s) or officers.
  - (c) if the applicant is an unincorporated association, corporation or partnership, the name of the unincorporated association, corporation or partnership, and the names and addresses of the limited partners, partners, officers and directors thereof.
  - (d) the dancehall operator's home and business address.
  - (e) the names, addresses, and phone numbers of the operator (s), manager(s), and employee(s) of the adult dancehall.
  - (f) the name, address, and phone number of the owner(s) of the premises where the adult dancehall is located.
  - (g) the location(s) of the adult dancehall(s).
  - (h) the planned date(s) of the adult dance(s).
  - (i) such other information as may be required by the license review board.
3. A public safety plan detailing any and all measures to be used to insure that adequate traffic control and crowd protection, both within and without the premises, will be maintained and the measure to be taken to estimate crowd numbers to assure consistent compliance with the Fire Code.
4. The applicant must provide proof that the premises is in compliance with all City of Atlanta laws including, but not limited to, Building, Zoning, And Fire Codes.
5. A statement that the applicant will, in the conduct and operation of the adult dancehall, comply with all City of Atlanta laws, including, but not limited to, the Noise Ordinance.
6. A statement from the owner or lessor of each planned location that the owner or lessor will appear before the License Review Board if specifically requested by the Board in a proceeding where a fine, suspension or revocation is being considered with respect to the applicant. Any refusal by the owner or lessor to appear before the License Review Board may be considered in any subsequent applications or renewals for any license or permit issued by the city.
7. The application shall be accompanied with a signed statement by three citizens of the city, certifying to the character of the applicant.

**Section \_\_\_\_ Applicant Required to Update Police on Changes in Location or Dates of Adult Dances**

1. The applicant for the adult dancehall license shall be required to update the police department on changes in the planned dates and changes in the planned locations of the public dances. Under no circumstances should an adult dance be conducted without written notification to the police department (on forms provided by the Atlanta Police Department) at least 72 hours prior to the scheduled event. When an event is moved to a location previously approved by the police department, the adult dance hall operator must provide at least 24 hours notice of the change in location and obtain the written approval of the License and Permits Unit.

2. All applicants shall furnish all data, information and records requested of them by the license review board or the department of police, and failure to furnish this data, information and records within 30 days from the date of the request shall be grounds for denial of the application. Applicants, by filing an application, agree to produce for oral interrogation any person requested by the license review board, the department of police or the city attorney considered as being important in the ascertainment of the facts relative to the license. The failure to produce the person within 30 days after being requested to do so shall result in the automatic dismissal of the application.
3. All applicants shall appear before the License Review Board at the completion of an investigation by the Atlanta Police Department.

**Section \_\_\_\_\_ Grounds for Denial or Nonrenewal of a License**

In addition to all other grounds for denial stated in this Division, no application for any license under this Division shall be granted if the application or the evidence on a hearing before the license review board shows:

- (1) The applicant is of bad moral character or has a bad reputation in the community or does not have sufficient mental capacity to conduct the business for which the application is made.
- (2) The applicant has had any license issued under the police powers of the city previously suspended or revoked; provided, however, the license review board may waive this subsection if two years have passed since any prior revocation of any license held by the applicant.
- (3) The application does not furnish evidence of adequate parking facilities available to the applicant's patrons and within 400 feet of the proposed location.
- (4) The applicant, as a previous holder of any dancehall license, dancehall license, or an alcohol beverage license, has violated any law, regulation or ordinance relating to that business within a five-year period immediately preceding the date the application is heard by the license review board.
- (5) The department of police was unable to verify any statement of information required to be disclosed on forms furnished by the police chief or to be able to adequately conduct a full investigation of an applicant or a place of business due to foreign background, ties or interest or for any reason beyond the police chief's control. If any license has been granted, information revealed that is contrary to representations made by the applicant, shall be cause for revocation of the license.
- (6) The applicant provided an application that has a material omission, untrue or misleading information contained in or left out of an original, renewal or transfer application for a license under this Division. If any license has previously been granted, these circumstances shall constitute cause for revocation.

**Section \_\_\_\_\_ Revocation.**

Any adult dancehall license granted shall be subject to revocation for due cause. Whenever in the opinion of the license review board there is cause to revoke the license, a written notice of intention to revoke shall be furnished to the holder thereof three days before a regular or called meeting of the board, at which time the holder of the license may make such showing that the licensee may deem proper. After a hearing, the board shall report its recommendations to the mayor. The Board can recommend a fine, suspension, or revocation the license. The mayor, upon receipt of the recommendation may fine, suspend or revoke the license or take any or no action which, in the mayor's discretion, is in the best interest of the peace and good order of

the city. An applicant whose license has been suspended or revoked can not operate any dancehalls in the City of Atlanta.

#### **Section \_\_\_\_ Due Cause**

"Due cause" is defined as

(a) As used in this section, the term "due cause," for the denial of applications for new dance hall licenses or for transfer of location or transfer of ownership or for revocation, suspension or refusal to renew license includes but is not limited to the following:

- (1) The conviction of any felony reasonably related to the ability of the licensee to operate and maintain the premises in a proper manner.
- (2) Permitting the solicitation of patrons on the licensed premises for prostitution or any other unlawful act where the licensee or the licensee's employee or agent knew or should have known of such conduct.
- (3) The failure to furnish any and all data, information and records related to the operation of licensed establishments, when such has been requested by the department of police or the license review board.
- (4) The failure to maintain any and all of the general qualifications applicable to the initial issuance of a license as set forth in this Division.
- (5) The failure to obtain prior approval of the mayor before operating a teen or adult dancehall.
- (6) Failure by the licensee to adequately supervise and monitor the conduct of the employees, patrons and others on the licensed premises or on any property owned or leased by the licensee, including but not limited to parking lots and parking areas, or on any parking lots or areas which may be lawfully used by patrons of a licensed establishment, in order to protect the safety and well-being of the general public and of those utilizing the premises.
- (7) The violation of Chapter 94, evidenced by receipt of an order by the human relations commission which shall contain findings of discrimination pursuant to such Division.
- (8) The violation of any other law, ordinance or regulation governing the operation of the dance hall establishment or which are reasonably related to the operation of such establishments.
- (9) The failure of a licensee whose licensed premises directly abuts a public street directly to maintain all property outside the lot and property line and inside the curb line upon the public street, including any sidewalk. Said duty to maintain the above-designated property must be accomplished within a reasonable time after the close of business each day. "Maintain" as used in this subsection shall mean keeping the specified area free of bottles, cups, trash and other debris. "Within a reasonable time" as used in this subsection shall mean within four hours of the close of business.
- (10) The violation by either the owner, the licensee, the management, an employee, an independent contractor, or anyone acting as an agent for or on behalf of any establishment licensed to sell alcohol of any of the city's ordinances which pertain to the posting of signage and/or banners found in Chapters 138 and 16-28A of the City of Atlanta Code of Ordinances if such violation is reasonably related to the operation of the licensed establishment and the owner or licensee knew or should have known of the posting. The director of the bureau of buildings, or his designee, shall report all violations of such ordinances of which the bureau of buildings is aware to the City of Atlanta Police Department's Licenses and Permits Unit within ten days of the occurrence of such violation.

(11) The violation by either the owner, the licensee, the management, an employee, an independent contractor, or anyone acting as an agent for or on behalf of any establishment licensed by the city's Noise Ordinance if such violation is reasonably related to the operation of the licensed establishment and the owner or licensee knew or should have known of the violation of the Noise Ordinance.

(12) Upon a finding of due cause, the mayor shall have the authority to deny applications for new licenses or for transfer of location or transfer of ownership and to revoke, suspend or refuse to renew any license issued by the city to any licensee under this Division.

(13) No application for a new license or a transfer of ownership shall be denied and no license issued by the city or any license under this Division shall be revoked, suspended or refused renewal except upon a finding of due cause and after a hearing and upon a five-day written notice to the licensee, stating the place, date, time and purpose of such hearing and setting forth the charge upon which the hearing shall be conducted. Denials of transfers of location are not applicable to these provisions.

(14) The commander of the Licenses and Permits Unit, or his designee, shall also notify the city councilmember who represents the district within which dance hall is located, which is subject to adverse action is located and all at-large councilmembers regarding the adverse action. Such notice shall provide the date, time and place of any hearing regarding the adverse action.

#### **Section \_\_\_\_\_ Appearance Before the License Review Board**

For purposes of this Section, the License Review Board shall consider whether the applicant:

1. owned or managed an establishment where a crime involving prostitution, lewd conduct, or assault on a juvenile to occur in or upon the dancehall premises.
2. owned or managed an establishment where any act of or solicitation for sexual intercourse, sodomy, oral copulation, or masturbation was committed.
3. was convicted for the possession of any weapon, or the possession or consumption of alcohol and/or marijuana, cocaine, or any other controlled substance.
4. or any employee, agent, partner, director, officer or manager thereof violated any of the provisions of this Division or committed any act which is a ground for denial of a license issued pursuant to this Division.
5. provides information on the planned sites of the adult dancehall where the building, structure, equipment or location of the business does not comply with the requirements or fails to meet the standards of the applicable health, zoning, building, fire or safety laws of the State of Georgia and the City of Atlanta, or the requirements of this chapter.

#### **Section \_\_\_\_\_ Issuance to persons with prior convictions.**

No original license for the operation of an adult dancehall shall be issued to any person, partnership or corporation for pecuniary gain if any individual having an interest, either as owner, partner or principal stockholder, directly or indirectly beneficial or absolute, or the individual's spouse shall have been convicted or shall have taken a plea of nolo contendere, within ten years immediately prior to the filing of the application, for any felony or misdemeanor of any state or of the United States or any municipal ordinance, except traffic violations. The term "conviction" includes an adjudication of guilt or a plea of guilty or nolo contendere or the forfeiture of a bond when charged with a crime; if the violation is for a misdemeanor, forfeiture of bond, municipal ordinance or if there is a

plea of nolo contendere, the license review board may, after investigation, waive that disqualification.

**Section \_\_\_\_\_ Security personnel.**

1. It shall be the obligation of every person licensed under this Division to ensure that an adequate number of qualified security personnel are employed and are on the premises of the adult dancehall during and following each adult dance as is necessary to maintain order and ensure compliance with the laws of the State of Georgia and ordinances of the City of Atlanta.
2. An "adequate number of security personnel" shall include at least two (2) persons trained as law enforcement personnel, which may include off-duty Atlanta police officers or sworn police officers of other jurisdictions.
3. At no time shall fewer than twenty-five percent (25%) of the security personnel in attendance at an adult dance have training as law enforcement personnel. Those security personnel not having law enforcement training must have received formal training in crowd control.
4. At all times, there must be one (1) police officer or security officer for each established entrance or exit on the premises.
5. It shall be the further obligation of every person licensed under this Division to employ, during and following each adult dancehall, at least one security officer to patrol the side-walks and public areas, including but not limited to, adjacent parking lots within 400 feet used by the patrons and any areas abutting the adult dancehall.

**Section \_\_\_\_\_ Police supervision.**

The presence of any policeman at any such public dancehall shall not relieve the proprietor thereof, or any of his employees, from the responsibility of the provisions of this Division or for violations of any law or ordinance or lawful rule of the Chief of Police or from responsibility for maintaining decency and order in said public dancehall.

**Section \_\_\_\_\_ Right of entry for purpose of inspection.**

Adult dancehalls shall at all times be open to the public authorities for entrance and inspection. All peace officers of The City of Atlanta shall have free access to adult dancehalls when a dance is being conducted for the purpose of inspection and to ensure compliance with the Code of Ordinances.

**Section \_\_\_\_\_ Hours of operation.**

No adult dance or adult dancehall shall be conducted, operated, or otherwise open to the public between the hours of seven a.m. (7:00 a.m.) and nine a.m. (9:00 a.m.) Monday through Saturday and on Sundays between the hours of 7:00 a.m. and 1 p.m..

**Section \_\_\_\_\_ Fees.**

The fee for an adult dancehall license shall be \$\_\_\_\_\_.

**Sec. \_\_\_\_\_ Date for payment of license fees; prorated fees.**

All annual license fees under this Division shall be paid in advance on or before January 1st of each year. Any person granted a new license under this Division during a calendar year shall pay the full license fee without proration, except that the fee for a new license granted after June 30 in any calendar year shall be fifty (50) percent of the annual license fees for the remainder of that calendar year.

**Section \_\_\_\_ Operating without a license --Penalty.**

Any person who shall conduct or operate an adult dance or dancehall without a valid license issued pursuant to this Division shall be guilty of a misdemeanor.

**Section \_\_\_\_ Violation of a Municipal Ordinance**

Upon conviction of a violation of any provision of this Division, a person may be subject to a fine not to exceed \$1,000.00 and costs, or imprisonment in the city jail for not more than 60 days, or work on the public streets or work on the public works of the city for not more than 60 days, or be subject to any one or more of the punishments, subject to all limitations contained in the Charter of the city. Each violation of this section shall constitute a separate offense.

**Section \_\_\_\_ Action by the License Review Board**

If by action of the police department, a cause for imposition of penalty, fine, suspension or revocation is forwarded to the License Review Board (for a first violation or any subsequent violations) for review, the applicant shall provide a written statement from the owner or lessor of the location verifying that the owner/lessor was notified that a violation of this Division by the applicant occurred at the owner/lessor's location upon appearance before the License Review Board.

**Section \_\_\_\_ Severability**

If any provision, clause, sentence or paragraph of this Code, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this Article which can be given effect without the invalid provisions or application and, to this end, the provisions of this Code are hereby declared to be severable.

**Section 4.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed.